

§ 25.282

27 CFR Ch. I (4–1–12 Edition)

(b) *Refund of beer tax excessively paid.* A brewer may be refunded the tax excessively paid on beer subject to the conditions outlined in § 25.285.

(c) *Rate of tax.* Brewers who have filed the notice required by § 25.167 and who have paid the tax on beer at the reduced rate of tax shall make claims for refund or relief of tax, or adjustments on the tax return, based upon the lower rate of tax. However, a brewer may make adjustments or claims for refund or relief of tax based on the higher rate of tax if the brewer can establish to the satisfaction of the appropriate TTB officer that the tax was paid or determined at the higher rate of tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

§ 25.282 Beer lost by fire, theft, casualty, or act of God.

(a) *General.* The tax paid by any brewer on beer produced in the United States may be adjusted (without interest) on the excise tax return, may be refunded or credited (without interest) or, if the tax has not been paid, the brewer may be relieved of liability for the tax if, before transfer of title to the beer to any other person, the beer is lost, whether by theft or otherwise, or is destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God. The tax liability on excessive losses of beer from transfer between breweries of the same ownership may be remitted as provided in § 25.286.

(b) *Unmerchantable beer.* When beer is rendered unmerchantable by fire, casualty, or act of God, refund, credit or adjustment of tax, or relief from liability of tax will not be allowed unless the brewer proves to the satisfaction of the appropriate TTB officer that the beer cannot be salvaged and returned to the market for consumption or sale.

(c) *Beer lost or destroyed.* When beer is lost or destroyed, whether by theft or otherwise, the appropriate TTB officer may require the brewer to file a claim for relief from the tax and to submit proof as to the cause of the loss.

(d) *Beer lost by theft.* When it appears that beer was lost by theft, the tax shall be collected unless the brewer proves to the satisfaction of the appropriate TTB officer that the theft occurred before removal from the brew-

ery and occurred without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

(e) *Notification of appropriate TTB officer.* (1) A brewer who sustains a loss of beer before transfer of title of the beer to another person and who desires to adjust the tax on the excise tax return or to file a claim for refund or for relief from liability of tax, must, on learning of the loss of beer, immediately notify in writing the appropriate TTB officer of the nature, cause, and extent of the loss, and the place where the loss occurred. Statements of witnesses or other supporting documents must be furnished if available.

(2) A brewer possessing unmerchantable beer and who desires to adjust the tax on the excise tax return or to file a claim for refund or for relief from liability must notify in writing the appropriate TTB officer, of the circumstances by which the beer became unmerchantable, and must state why the beer cannot be salvaged and returned to the market for consumption or sale.

(f) *Additional information.* The appropriate TTB officer may require the brewer to submit additional evidence necessary to verify the tax adjustment or for use in connection with a claim.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

[T.D. ATF-224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF-437, 66 FR 5480, Jan. 19, 2001]

§ 25.283 Claims for refund of tax.

(a) *Beer returned to brewery or voluntarily destroyed at a location other than a brewery.* Claims for refund of tax on beer returned to a brewery under the provisions of § 25.213 or voluntarily destroyed at a location other than a brewery shall include:

(1) The name and address of the brewer filing the claim, the address of the brewery from which the beer was removed, and the address of the brewery to which the beer was returned, as applicable;

(2) The quantity of beer covered by the claim and the rate(s) of tax at which the beer was tax paid or determined;

(3) The amount of tax for which the claim is filed;

(4) The reason for return or voluntary destruction of the beer and the related facts;

(5) Whether the brewer is indemnified by insurance or otherwise in respect of the tax, and if so, the nature of the indemnification;

(6) The claimant's reasons for believing the claim should be allowed;

(7) The date the beer was returned to the brewery, if applicable;

(8) The name of the person from whom the beer was received;

(9) A statement that the tax has been fully paid or determined; and

(10) A reference to the notice (if required) filed under §§ 25.213 or 25.222.

(b) *Beer lost, destroyed, or rendered unmerchantable.* Claims for refund of tax on beer lost, whether by theft or otherwise, or destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God shall contain:

(1) Information required by paragraphs (a)(1), (2), (3), (5), and (6) of this section;

(2) A statement of the circumstances surrounding the loss;

(3) When applicable, the reason the beer rendered unmerchantable cannot be returned to the market for consumption or sale;

(4) Date of the loss, and if lost in transit, the name of the carrier;

(5) A reference incorporating the notice required by § 25.282; and

(6) When possible, affidavits of persons having knowledge of the loss, unless the affidavits are contained in the notice given under § 25.282.

(c) *Voluntary destruction of taxpaid beer which was never removed from brewery premises.* Claims for refund or credit of tax on beer voluntarily destroyed under the provisions of § 25.225, shall include:

(1) Information required by paragraphs (a)(1), (a)(2), (a)(3), (a)(5), and (a)(9) of this section; and

(2) The information contained in the record required by § 25.225(b).

(d) *Additional evidence.* The appropriate TTB officer may require the submission of additional evidence in support of any claim filed under this section.

(e) *Filing of claim.* Claim for refund of tax shall be filed on Form 2635 (5620.8). Claims shall be filed within 6 months after the date of the return, loss, destruction, or rendering unmerchantable. Claims will not be allowed if filed after the prescribed time or if the claimant was indemnified by insurance or otherwise in respect of the tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

[T.D. ATF-224, 51 FR 7673, Mar. 5, 1987, as amended by T.D. ATF-251, 52 FR 19314, May 22, 1987; T.D. ATF-268, 53 FR 8629, Mar 16, 1988; T.D. ATF-437, 66 FR 5480, Jan. 19, 2001]

§ 25.284 Adjustment of tax.

(a) *Adjustment of tax in lieu of refund.* In lieu of filing a claim for refund of tax as provided in § 25.283, a brewer may make an adjustment (without interest) to the excise tax return, Form 5000.24, for the amount of tax paid on beer returned to the brewery, voluntarily destroyed, lost, destroyed, or rendered unmerchantable.

(b) *Beer returned to brewery other than from which removed.* An adjustment may be made on the excise tax return for the amount of tax paid on beer returned to the brewery under § 25.213. The adjustment will be made on the tax return filed for the brewery to which the beer was returned. The adjustment may not be made prior to the return of beer to the brewery. If the brewer is required to file a notice under § 25.213, the adjustment may not be made until the appropriate TTB officer authorizes disposition of the beer.

(c) *Beer voluntarily destroyed.* An adjustment may be made on the excise tax return for the amount of tax paid on beer voluntarily destroyed under subpart N of this part. The adjustment will be made on the tax return filed for the brewery from which the beer was removed. The adjustment may not be made prior to the destruction of the beer.

(d) *Beer lost, destroyed or rendered unmerchantable.* An adjustment may be made on the excise tax return for the amount of tax paid on beer lost, destroyed, or rendered unmerchantable under § 25.282. The adjustment will be made on the tax return filed for the